

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|-----------------------------------|---|---------------------------------|
| TIMOTHY SMITH, | : | Case No. 1:05CV593 |
| | : | |
| Plaintiff, | : | JUDGE KATHLEEN O'MALLEY |
| | : | |
| v. | : | |
| | : | |
| CITY OF CLEVELAND, et al., | : | <u>OPINION AND ORDER</u> |
| | : | |
| Defendant. | : | |

A Case Management Conference (“CMC”) was held in the above matter on July 14, 2005. During the CMC, counsel for Plaintiff moved the Court to voluntarily dismiss with prejudice the federal claim in Count One of the Amended Complaint according to Federal Rule of Civil Procedure 41(a). The Court **GRANTED** Plaintiff’s request. Because there is not complete diversity between the parties and the only remaining claims asserted in Plaintiff’s Amended Complaint are state law claims, this Court decides to exercise its discretion and hereby remands the remaining claims back to state court. See 28 U.S.C. § 1441 (c). Accordingly, this case is **REMANDED** back to the Cuyahoga County Court of Common Pleas.

IT IS SO ORDERED.

s/Kathleen M. O’Malley
KATHLEEN McDONALD O’MALLEY
UNITED STATES DISTRICT JUDGE

Dated: July 20, 2005